

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

REIKO ELIO PENUNURI,

Defendant.

8:18-CR-152

**ADOPTION OF
MAGISTRATE JUDGE'S
FINDINGS AND RECOMMENDATION**

This matter is before the Court on the Magistrate Judge's Findings and Recommendation on Plea of Guilty ([Filing 361](#)) recommending that the Court accept Defendant's plea of guilty. There are no objections to the findings and recommendation. Nonetheless, the Court declines to adopt the findings and recommendation at this time.

Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and NECrimR [11.2\(d\)](#), the Court has conducted a de novo review of the record and finds Defendant was never advised of the maximum term of supervised release to which he may be subjected. Defendant is pleading guilty to Counts I and XI of the Indictment. [Filing 362 at 1](#). Count I of the Indictment ([Filing 72](#)) alleges a violation of [21 U.S.C. § 841\(a\)\(1\)](#) and (b)(1) for which the statutory maximum penalties include life in prison, a \$10,000,000 fine, and a lifetime of supervised release. While Defendant was advised of the appropriate maximum penalties relating to incarceration and a fine, he was only advised of the statutory minimum term of supervised release and not the maximum. *See* [Filing 366 at 8](#). Similarly, the Plea Agreement ([Filing 363](#)) lists only the minimum term of supervised release while the Petition to Enter a Plea of Guilty ([Filing 362](#)) incorrectly indicates that there is no minimum term of supervised release but a maximum of five years.

Because Defendant was never informed of the correct supervised release maximum, it is the Court's intent to further inquire into this matter at the sentencing hearing set for January 13,

2021. At that time, the Court will decide whether the Defendant's plea of guilty should be accepted and whether the matter should immediately proceed to sentencing. Counsel should be prepared to address this issue and amend via interlineation at the sentencing hearing.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation on a Guilty Plea ([Filing 361](#)) is held in abeyance;
2. This matter will be addressed at the sentencing hearing set for January 13, 2021; and
3. This case shall provisionally proceed to sentencing.

Dated this 3rd day of November, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge